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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,403	09/26/2006	Christopher J. Caspers	247079-000254USPX	1940
70243	7590	03/24/2010		
NIXON PEABODY LLP 300 S. Riverside Plaza 16th Floor CHICAGO, IL 60606			EXAMINER WILLIAMS, ROSS A	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 03/24/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,403	Applicant(s) CASPERS ET AL.	
	Examiner ROSS A. WILLIAMS	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 7 - 9, 16, 17, 43, 44, 46 and 48 - 63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 7 - 9, 16, 17, 43, 44, 46 and 48 - 63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/16/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/16/2010 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 4, 8, 9, 16, 17, 43, 44, 46 and 48 - 51 are rejected under 35

U.S.C. 102(e) as being anticipated by Englman et al (US 2005/0130731).

As per claim 1, Englman teaches the following:

an input device configured to receive a wager input from a player for playing a wagering game; (Englman 0051)

a display device configured to display (Englman 0051 – 0052)

a basic game having a plurality of symbols that indicate a randomly selected outcome of said basic game, said randomly selected outcome being selected in response to the wager input by the player, said basic game having a first mathematical model; and (Englman 0052)

a progressive game feature having a progressive award that is triggered by a predetermined event, said progressive game feature having a second mathematical model that is different than said first mathematical model, said progressive award including a plurality of free plays increasing based on said wager being received at said gaming terminal and other wager inputs being received from other gaming terminals, said progressive award having an expected value and an actual value~ said expected value being defined by a statistical advantage associated with said second mathematical model and said actual value being determined by said plurality of free plays of said progressive award; (Englman teaches the player entering a 2nd wager that "enhances" the game being played to provide more advantageous payouts etc. Englman teaches that the second wager can provide means to offer the player an increase in free plays or spins of a bonus game. Thus the plurality of free plays offered

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to the player increase with the wager. Englman teaches the doubling the number of free spins from 8 – 16. The bonus game or the game that is enhance by means of the second wager to provide "enhanced gaming" provides the player with a game that has a second mathematical model versus the non-enhanced gaming that has a first mathematical model associated with it. The enhanced game can provide the player with an overall increased value payout average to the player) (Englman 0053, 0057, 0060)

wherein upon being awarded, said plurality of free plays is received by said player independent of said wager input. (Englman 0053, 0057 - 0059).

As per claim 4, wherein said plurality of free plays yields a monetary or non-monetary value associated with randomly selected outcomes of said plurality of free plays (Englman 0053, 0057 – 0059).

As per claim 8, wherein said predetermined event is a selection of a progressive-award outcome from a plurality of progressive game outcomes that are randomly selectable in response to receiving said wager input. (Englman 0057).

As per claim 9, wherein said progressive award is measured in integers and increases by an incremental value for each wager input, said incremental value being a fraction of the integers associated with said progressive award. (Englman 0057).

As per claim 16, wherein said progressive game feature has multiple progressive awards that are determined by said plurality of free plays at said gaming terminal. (Englman 0057).

As per claim 17, wherein said actual value may be zero based on said plurality of free plays. (The free bonus plays do not guarantee the player winnings) (Englman 0057).

As per claim 43,
accepting, at an input device, a wager input from a player for playing a wagering game; (Englman 0051)

conducting a basic game of the wagering game at a plurality of gaming terminals in response to receiving wager inputs, said basic game having a first mathematical model; (Englman 0052)

displaying the basic game on respective display devices of the plurality of gaming terminals; (Englman 0051 – 0052)

changing said progressive award in response to said wager inputs received at said plurality of gaming terminals, said progressive award including a plurality of free plays increasing based on said wager inputs received at said plurality of gaming terminals, said progressive game feature having a second mathematical model that is different than said first mathematical model;

in response to a randomly selected outcome being a progressive-award outcome, awarding said progressive award to a player, said progressive award having an expected value and an actual value, said expected value being defined by a statistical advantage associated with said second mathematical model and said actual value being determined by said player conducting said plurality of free plays at a respective one of said gaming terminals; and upon being awarded, receiving said

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plurality of free plays by said player independent of said wager inputs. (Englman teaches the player entering a 2nd wager that "enhances" the game being played to provide more advantageous payouts etc. Englman teaches that the second wager can provide means to offer the player an increase in free plays or spins of a bonus game. Thus the plurality of free plays offered to the player increase with the wager. Englman teaches the doubling the number of free spins from 8 – 16. The bonus game or the game that is enhance by means of the second wager to provide "enhanced gaming" provides the player with a game that has a second mathematical model versus the non-enhanced gaming that has a first mathematical model associated with it. The enhanced game can provide the player with an overall increased value payout average to the player) (Englman 0053, 0057, 0060)

As per claim 44, further comprising the step of allowing said player to engage in said plurality of free plays. (Englman 0057).

As per claim 46, further comprising the step of awarding to said player said actual value in response to outcomes achieved in said plurality of free plays. (Englman 0057).

As per claim 48, wherein said randomly selected outcome is an outcome that is not selected during said basic game. (when the game transitions to free plays the game will no longer be operating in the basic game mode, hence cannot select outcomes in the basic game mode)(Englman 0057).

As per claim 49, wherein said randomly selected outcome is determined by a progressive-game controller that is external to said plurality of gaming terminals. (Englman Fig 2, 0047).

As per claim 50, wherein said randomly selected outcome is determined after a preselected wager amount is received at one of said plurality of gaming terminals. (Englman 0052 – 0054).

As per claim 51, wherein said preselected wager amount is the maximum wager amount at said plurality of gaming terminals. (Englman 0051).

Claim 7, 54 - 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Englman et al (US 2005/0130731) in view of Vancura (US 2004/0053666).

As per claim 7, Englman fails to disclose “wherein said progressive award is associated with a multiplier value, said multiplier value increasing the value of a monetary award achieved in said plurality of free plays...” However, Vancura teaches a game machine that offers a player a free play mode, wherein the free play mode award is based upon a multiplier (Vancura 0041).

It would be obvious to one of ordinary skill in the art to modify Englman in view of Vancura to provide a progressive award that offers a player a free play mode wherein the award the player achieved during the free play mode is increased by a multiplier. This would enable the player to increase the potential award that they are able to receive during the game.

As per claim 54,

using an input device to accept a wager input for providing wagering game play; displaying the wagering game play on a display device of a gaming terminal; (Englman 0051)

in response to the wagering game play being displayed at one or more gaming terminals linked to a progressive award, using a progressive game controller to increase the progressive award by incrementing the number of free plays... (Englman 0053, 0057, 0060)

However Englman does not specifically disclose ...increase the progressive award by incrementing the number of free plays **and the multiplier associated therewith; and**

in response to a triggering event resulting from the wagering game play, awarding the current number of free plays and the associated multiplier defining associated the progressive award, the current number of free plays and the associated multiplier being provided independent of the wager input.

However, Vancura teaches a game machine that offers a player a free play mode, wherein the free play mode award is based upon a multiplier (Vancura 0041).

It would be obvious to one of ordinary skill in the art to modify Englman in view of Vancura to provide a progressive award that offers a player a free play mode wherein the award the player achieved during the free play mode is increased by a multiplier. This would enable the player to increase the potential award that they are able to receive during the game.

As per claim 55, further including conducting the current number of free plays to determine an actual monetary value of the progressive award. (Englman 0057).

As per claim 56, wherein the actual monetary value is based on the payoff amount associated with the randomly selected outcome of each free play. (Englman 0057).

As per claim 57, wherein the one or more gaming terminals includes a plurality of gaming terminals. (Englman 0033).

As per claim 58, wherein the wagering game play includes wager inputs such that the increasing includes increasing the progressive award in response to the wager inputs. (Englman 0057).

As per claim 59, further including resetting the number of free plays to a startup value after the awarding of the current number of free plays. (Englman 0057).

As per claim 60, wherein the progressive award includes a first level and a second level, the first level including a first number of free plays of the computerized game, the second level including a second number of free plays of the computerized game, the increasing including increasing the first number of free plays and the second number of free plays, the awarding including awarding the first number of free plays and the second number of free plays. (Englman 0057).

As per claim 61, further including displaying the progressive award on the one or more gaming terminals. (Englman 0057).

As per claim 62, further including displaying the progressive award on signage distinct from the one or more gaming terminals. (Englman 0057).

As per claim 63, further including displaying a representation of a fraction of a free play between the current number of free plays and a next higher whole number of free plays. (Englman 0057).

Claim 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Englman et al (US 2005/0130731) in view of Huard (6,929,264)

Regarding claim 52 and 53, Englman does not disclose, in response to said wager input being more than said preselected wager amount and said progressive award being awarded, using a remainder of said wager input to determine if a consolation prize is won by said player, the remainder of said wager input being the difference between said wager input and said preselected wager amount. However Huard discloses a game wherein the player makes a secondary wager on top of the primary wager to be eligible for a consolation prize in the event the player does not win the primary outcome (Huard 19:15 – 20). This auxiliary wager can be views as the remainder of an initial wager. It would be obvious to one of ordinary skill in the art to modify Englman in view of Huard to provide a game wherein the player receives a consolation prize for making betting extra money or credits. This ensures that player wins some sort of award.

Response to Arguments

Applicant's arguments with respect to claims 1, 4, 7 - 9, 16, 17, 43, 44, 46 and 48 - 63 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROSS A. WILLIAMS whose telephone number is 571-272-5911. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ronald Laneau can be reached on 571-272-6784. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. A. W./
Examiner, Art Unit 3714

/Ronald Laneau/
Primary Examiner, Art Unit 3714